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10/661,423	09/15/2003	Bernard P. Maher	LIN1085	8097

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,423	Applicant(s) MAHER, BERNARD P.	
	Examiner Bryan Fischmann	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-15-2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2 and 5 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-15-03</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The disclosure is objected to because of the following:

A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

1) Lines 4 and 5 of page 4 recites "Figure 3 is a schematic cross-sectional view taken along line 3-3 of Figure 1 of the present invention". Figure 1 would appear to fail to illustrate line 3-3.

B) Line 9 of page 5 recites "in use, the assembly 10 is used as a conventional stroller".

While not strictly objectionable, it is noted that the above recitation could be construed as misleading, as it would appear that the disclosed invention would not allow the stroller to be steered, since both the front and rear wheels are mounted on a fixed, "through axle", as opposed to having either the front or rear wheels mounted on a "swiveling axle". It would appear that the stroller of Applicant's invention is only "reorientable" to a change in a desired direction of travel by manual movement of the stroller. Note that conventional strollers are "steerable".

Claim Objections

2. Claims 3 and 4 objected to due to the following:

Claim 3 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to

Art Unit: 3618

cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Note that the additional limitation of claim 3 appears to be a "duplication" of the limitation of lines 9 and 10 of claim 1.

Regarding claim 4, note claim 4 is dependant upon claim 3.

Allowable Subject Matter

3. Claims 1, 2 and 5 are allowed.

Reasons for Allowance

4. The following is an Examiner's statement of reasons for allowance of independent claims 1 and 5:

Claim 1 recites the limitation of a baby stroller device comprising a seat; a frame being attached to said seat, a rear axle and a front axle, a plurality of back wheels being rotatably attached to said rear axle; a pair of hubs, each of said hubs being rotatably coupled to one of a pair of free ends of said front axle; a plurality of arms being attached to and radially extending outwardly from each of said hubs, a plurality of rods, a plurality of front wheels, each of said front wheels being rotatably coupled to one of said rods such that each of said rods has at least one front wheel rotatably coupled thereto. This limitation, in combination with the other limitations of claim 1, were not found in the prior art.

Claim 5 contains a similar limitation.

Art Unit: 3618

5. The following is an additional statement on the reasons for allowance by the Examiner:

As already noted in this Office Action, the disclosed invention does not allow the stroller to be steered, since all wheels of the stroller are mounted on "fixed axes". Though not explicitly recited in the claimed invention of claims 1 and 5, the claimed invention would require, due to the use of the "open end" term "comprising" in the preamble, the alternative of either fixed "through axles", attached to the front and rear wheels, or "stub axles" (one axle for each wheel) for 2 or more wheels. In the case of stub axles for the front wheels, each front wheel would require two "stair climbing devices" to meet the above claim 1 limitation. In the case of stub axles for the rear wheels, each rear wheel stub axle would require two wheels rotatably attached to each stub axle to meet the above claim 1 limitation. No stroller, or similar "stair climbing vehicle" has the above features incorporated into the wheel assemblies of a stair climbing vehicle, except Porcello, US Patent 3,269,741 ('741), which is discussed below.

As noted above, while Porcello, '741 teaches a stair climbing vehicle with "through axles" for both the front and rear wheels (Figures 1 and 2). Porcello '741 fails to teach a seat attached to the frame of the vehicle. While the vehicle of Porcello could transport a seat, the seat would not be "attached" to the frame of the vehicle. Also, the vehicle of Porcello would not appear to be easily modified to a "stroller configuration". Note also the stair climbing vehicle of Figures 1 and 2 of Porcello '741 is steerable.

Art Unit: 3618

The lack of the claimed "wheel assembly features" discussed above being found in the prior art, is likely due to the fact, as mentioned, that the claimed inventions of Applicant has limited utility, as the stroller, as claimed by Applicant, cannot be steered. Instead, as previously noted in this Office Action, the claimed inventions of Applicant are only "reorientable" to a desired change in direction in travel, by manually raising either the front or rear wheels of the stroller and "reorienting" the orientation of the stroller so that the stroller is then oriented in the desired direction.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. This application is in condition for allowance except for the following formal matters:

The Specification and claim objections as noted in this Office Action.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3618

Porcello (3 patents), Pascoo, Kemm, Pennington, Jr., JP 10-29539 – teach stair climbing vehicles

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRYAN FISCHMANN
PRIMARY EXAMINER